UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/SR.1156
21 July 1992

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Forty-fifth session

SUMMARY RECORD OF THE 1156th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 16 July 1992, at 3 p.m.

Chairman: Mr. POCAR

later: Mr. AGUILAR URBINA

CONTENTS

Consideration of reports submitted by States parties under article 40 of the Covenant (continued)

Third periodic report of Mongolia (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.92-16420/4683B

The meeting was called to order at 3.20 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of Mongolia (CCPR/C/64/Add.2) (continued)

1. The CHAIRMAN invited Mr. Amarsanaa to answer the oral questions that had been put in connection with section III of the list of issues.

2. Mr. AMARSANAA (Mongolia) said that a question had been asked about provisions to ensure equality before the courts. The lack of adequately trained staff in the Mongolian legal service made it difficult to proceed with the reform of the judiciary. Judges must possess high moral qualities as well as be adequately trained. It was also important to ensure their complete independence and the shortage of funds made it difficult to set up a well-functioning system in a short space of time. The legal system to be introduced under the new Constitution contained many changes. There was to be a Supreme Court, and the military courts of the previous system no longer existed. Provision would be made for different types of court under the Constitution and, as far as possible, trials would be conducted in public, although some would still be held in camera. An effort was being made to improve the legal system under the new Constitution, particularly in respect of human rights, but no satisfactory arrangements had yet been instituted to distinguish between cases that required a public hearing and those that needed to be held in camera. All the persons working in the legal service needed to be trained further and to be made more aware of human rights questions. A meeting of legal experts from various countries was to be held in Mongolia in October 1992, and would make proposals for reforms. An effort would be made to find an appropriate model. In the past, Mongolia had used Soviet legislation as an example, but in future the system might be based on Roman or other law. A seminar was to be held in July in which specialists from the United States would participate. The Government was trying to discover what legal system would be best suited to society and life in Mongolia.

3. The CHAIRMAN invited Mr. Amarsanaa to respond to the points raised in section IV of the list of issues, which read:

> "IV. Freedom of movement and expulsion of aliens, right to privacy, freedom of religion, expression, assembly and association, right to participate in the conduct of public affairs, and rights of persons belonging to minorities (articles 12, 13, 17, 18, 19, 20, 21, 22, 25 and 27)
>
> (a) What is the current status and content of legislation on entry and departure?

(b) Please clarify the compatibility with article 12 of the Covenant of the grounds for refusing an exit visa mentioned in paragraph 46 of the report. What are the possibilities of appeal against such decisions?

(c) Please explain the procedures leading to an expulsion order and the remedies available to the individuals concerned.

(d) With reference to paragraph 57 of the report, please provide information on the constitutional provisions relating to the right to privacy and on the process of review of the Civil Code with the intention to strengthen that right.

(e) Please provide information on the status of the bill on the right to freedom of religion currently in preparation.

(f) Please provide information on any restrictions to the freedom of assembly and association of religious communities, the use of places of worship, the publication of religious material or to the liberty of parents to ensure the religious education of their children.

(g) What is the status of the preparation of the new press law?

(h) Please elaborate on the criteria used in prohibiting public meetings and on the recourse available against such decisions. (See para. 64 of the report)

(i) Please provide information on the procedure for registering new political parties. Please also provide information on new legislation allowing trade union pluralism and its effects.

(j) What factors and difficulties, if any, exist with respect to the implementation and enjoyment of the rights under article 27 of the Covenant? What is the size of the different minority groups in Mongolia and how are the rights of such groups under article 27 of the Covenant guaranteed?"

4. Mr. AMARSANAA (Mongolia) said, in connection with item (a), that a bill on entry and departure had been introduced in Parliament in spring 1990. Parliament had held a first reading but had deferred adoption of the proposed legislation on the grounds that it needed further work. The new Great People's Khural was currently considering a revised bill.

5. On item (b) of the list of issues, he said that the system described in paragraph 46 of the Mongolian report no longer applied. The figure of 5 per cent of refusals of exit visas related to 1990.

6. Concerning item (c), the Act on the Rights and Duties of Aliens in Mongolia provided for the expulsion of aliens who were involved in activities contrary to the interests of the Mongolian State, namely activities contrary to the interest of national security or public order, including violence against Mongolian citizens, or activities harmful to Mongolian society as a whole. An order for expulsion must be issued by the competent Mongolian authorities and the person could then be compelled to leave the country. If, during his stay, he violated the rights of the people of Mongolia in some way, the case for deportation would be considered by the Ministry of Foreign Affairs, or, if a violation of national security was involved, the matter would be dealt with by the Ministry of Public Security. The most usual grounds for expulsion were national security interests. However, since 1986 and the publication of the second periodic report, there had been no instance of any expulsion order.

7. On item (d), he said that the rights and freedoms of citizens of Mongolia were set out in the new Constitution, including the right to privacy. The Civil Code was currently under review and provisions would be included in it to prohibit interference in private and family life and illegal encroachment on the personal life, home or correspondence of individuals.

8. On item (e), he stated that, under the Constitution, Mongolian citizens had the right to freedom of religion. A bill on freedom of worship was currently before Parliament. The new legislation should be enacted by the end of 1992 or early 1993. For the time being, the 1934 Act, which was clearly somewhat out of date, applied.

9. On item (f), he informed the Committee that since 1990 there had been no restrictions of any kind in Mongolia on the freedom of assembly and association of religious communities. The Government had introduced measures abolishing the previous restrictions on monasteries. There was complete freedom of worship and in the past few years a number of religious schools had been established.

10. Regarding item (g), he said that the new press law was currently before Parliament.

11. As for item (h), a number of new political parties and organizations had emerged since the publication of the report, with a consequent increase in the number of meetings and demonstrations. The situation had changed since 1990 and at the moment the position was not fully regulated. The procedure under the April 1990 decree of the Presidium of the Great People's Khural was described in paragraphs 64-66 of the report. New legislation on meetings and demonstrations was currently in preparation. Twenty public meetings had been held in 1990, 10 in 1991, and 13 in the first half of 1992. The Executive Committee had ordered changes to be made in the arrangements for four meetings before they could be held.

12. With regard to item (i), he said that there were currently 14 political parties in Mongolia, ranging from the Mongolian People's Revolutionary Party established in 1921 to the Mongolian Labour Party established in April 1992. All parties must be registered with a special body of the Supreme Court. The application for registration must state the party's aims and the party must have a minimum of 801 members. Legislation on trade union rights had been enacted in April 1991. All the procedures regarding the establishment and functioning of trade unions were specified in the legislation. The rights and guarantees applying to workers were also set out in the legislation. There were currently nine different trade unions in Mongolia in various fields of activity.

13. In response to item (j), he said that the new Constitution contained provisions prohibiting discrimination. Special attention was being paid to protecting the cultural heritage of the different peoples of the country. The Languages Institute of the Mongolian Academy of Sciences was particularly concerned with preserving the literature and language of the various nationalities. Some 78 per cent of the population of Mongolia were Khalkha. The remainder were members of various national minorities, the Kazakhs accounting for 6 per cent and the Buryats for 2 per cent of the population. The Mongolian Academy of Sciences Languages Institute and Cultural Institute had established a special unit to study the culture, art, literature and language of the Kazakhs in a particular region of Mongolia. In that region, as noted in paragraph 98 of the report, an Islamic mosque had been used for religious services since 1990. Schools there gave instruction in Kazakh, and there were a national theatre, a folklore group, newspapers and radio programmes, all using the Kazakh language.

14. Mr. NDIAYE said that the Committee greatly appreciated the presence of the Minister of Justice of Mongolia at the current session. However, the report itself described the draft laws due to be adopted by the Great People's Khural without saying anything about the effect they were likely to have in practice. Many articles of the Covenant were dealt with very briefly: for instance, the complex series of rights covered by article 14 of the Covenant received only three lines in the report, although the Committee had asked for more information about the implementation of article 14 when considering Mongolia's second periodic report. There were other questions which the Committee had raised in the past which had still not been answered.

15. Paragraph 46 of the report stated that a visa application might be turned down "in the interests of the citizen himself", among other reasons. Surely that provision could easily be interpreted in a way which impeded freedom of movement? Similarly, there were surely too many grounds for expelling aliens from Mongolia (paras. 48 and 49 of the report). After all, the people concerned had presumably been admitted on the basis of compliance with the regulations. The report gave no information about any procedure for appeal against an expulsion order.

16. Paragraph 65 of the report stated that a meeting or demonstration could be postponed for a maximum of 10 days if its aim was "contrary to the spirit of the Constitution". However, the aim of a meeting would surely not change in 10 days, so the restriction seemed pointless.

17. Turning to article 22 of the Covenant, on the right to freedom of association, he said that Mongolia had provided detailed information and statistics about the opposition parties in the Great People's Khural and the Little Khural. That was just the kind of material the Committee needed. However, he would like to know whether opposition parties were active only in the two Khurals, or whether they also played an active role in government. Was there any prospect of one of the opposition parties actually gaining power at some future date?

18. The report stated in paragraph 59 that a draft law on the freedom of religion was being prepared. Had religious practices been tolerated in the past, in practice if not in law? Were there good relations between the various religious groups, and which religion exerted the most influence in the political, economic and social fields? Did the Muslim community in Mongolia allow Muslim women to marry non-Muslims? He would also like to know whether senior political figures, such as the President, had proclaimed a belief in any religion, or whether they were atheists.

19. Mr. MYULLERSON said that, if a draft law on the right to leave the country was currently before Parliament, which law was in force at present? What was the situation in practice of a citizen who wished to leave Mongolia? The report stated in paragraph 46 that some visa applications were rejected for a number of reasons, including the protection of State secrets. Such a restriction was surely only necessary in a totalitarian society: had it been removed from the new draft law? Noting that another of the reasons given was "the interests of the citizen himself", he asked who was entitled to decide what was in a citizen's best interests.

20. The Mongolian delegation had said that a draft press law was also before Parliament: he would like to know more about the law currently in force. Were the mass media (television, radio, newspapers, journals, etc.) in State or private ownership? How many national newspapers and journals were there, and were foreign publications easily obtainable?

21. In respect of article 25 of the Covenant, the report stated in article 86 that a preliminary ballot was held for any election with more than two candidates. Now that there were 14 political parties, as the Mongolian representative had said, was there a preliminary ballot in every election? Lastly, he asked why, in the elections to the Great People's Khural, the vote had been declared invalid in 33 electoral wards (para. 88 of the report).

22. Mr. AGUILAR URBINA, noting that, according to the Mongolian representative, new legislation governing the freedom of religion had been drawn up to replace the 1934 legislation, asked how the new law differed from the old one. In 1934 Mongolia had already been under Communist rule, and by now there were only two Buddhist monasteries left in the country.

23. The report stated (para. 65) that a meeting or demonstration could be postponed if its aim was contrary to "the unity of the Mongolian people". He asked what was meant by that expression, especially in view of the fact that there were groups of ethnic Mongolians in a number of other countries.

24. Mr. ANDO inquired about the restrictions on the freedom of movement of foreign journalists, which were apparently still in force (para. 47 of the report). In respect of article 19 of the Covenant, he asked whether the radio and television services were still a State monopoly and whether any attempt was made to reflect a range of opinion. Did the television service have an independent governing body, and how free was it from government influence? In connection with article 27 of the Covenant, he asked about the rights of the small Chinese minority in Mongolia. There were also many ethnic Mongolians in the People's Republic of China: were there any restrictions on travel, in either direction?

25. Mr. SADI, noting that an exit visa was no longer required to leave Mongolia, said he would nevertheless like to know whether there were any other restrictions, such as fiscal regulations or difficulties in obtaining a passport. He asked for more details about the bill on freedom of religion which was currently before the Great People's Khural. He would also like to know in what way the draft press law, also before Parliament, differed from the existing law. The representative of Mongolia had said that there were 14 political parties in the country: did they represent the full spectrum of political opinion?

26. Mr. DIMITRIJEVIC remarked that Mongolia seemed to be following the path of consensus and tolerance; indeed, he believed that one of its political parties was called the Bourgeois Party, which was surely a sign of great tolerance in a former Communist country.

27. In connection with article 12 of the Covenant, he noted that the report (paras. 45-47) made no mention of freedom of movement within the country. Were people free to travel and live wherever they wished inside Mongolia? Did they have to register with the police, and were there any restrictions on the allocation of housing?

28. Like Mr. Sadi, he would like to know more about the regulations governing the issue of a passport. How long were passports valid, and were people obliged to hand in their passports to the police when they were not using them? Was a passport all that was needed for a person to leave the country, or were other documents required?

29. He shared Mr. Ando's concern about restrictions on the activities of foreign journalists, which infringed not only the freedom of movement, but also the freedom of information and expression. In respect of article 18 of the Covenant, dealing with the right to freedom of thought, conscience and religion, he asked about the position of the Buddhist religion, which had been the major driving force in society before the advent of the Communist regime. He was particularly interested in any measures to restore property which had

been confiscated from Buddhist institutions. In relation to article 19 of the Covenant, on freedom of opinion, he noted that officials were not allowed to persecute a citizen for criticizing the actions of the State (para. 61 of the report). However, surely it was the authorities themselves who decided whether a citizen's comments constituted lawful criticism? How did the draft law on the freedom of the press and the new Penal Code deal with that issue?

30. Mr. Aguilar Urbina took the Chair.

31. Mr. WENNERGREN asked if he was right in understanding that Buddhist monks were not included in the categories of persons exempted from compulsory military service: if so, and given their convictions, that seemed a strange omission. He further asked whether the new legislation would continue to sanction through imprisonment refusal of military service on grounds of conscience, or whether provision would be made for objectors to perform alternative national service.

32. Noting from paragraph 65 of the report that the Executive Committee of the Khural of People's Deputies was empowered to authorize or prohibit meetings and demonstrations, he asked where - both physically and in the administrative structure of the country - that body was located or represented. What were its contacts and lines of communication with local police authorities, and to what extent were the latter's views taken into account? Further noting that at present in such matters the decision of the Presidium of the Khural on appeal was final, he asked whether any consideration was being given to the possibility of permitting the judicial review of denials of permission to hold meetings or demonstrations. More generally, was the introduction of the principle of judicial review being contemplated by the country's lawmakers?

33. He understood that the right to vote was accorded from the age of 18. Could the right be withdrawn, for example in the case of persons convicted of treason or other offences or persons detained in prison, or for any other reasons?

34. Observing with some surprise the very high rate of participation in elections, he wondered whether voting was compulsory in Mongolia.

35. Referring to article 25 (c) of the Covenant, on access to public service, he asked how that right was guaranteed and whether it was exercised in Mongolia on general terms of equality.

36. Mr. Pocar resumed the Chair.

37. Mr. EL SHAFEI said that the large number of questions posed testified to the Committee's great interest in the momentous events taking place in Mongolia and its keen desire for information. For his part, he would appreciate further details with regard to the imposition and duration of assigned residence, especially in the case of lawbreakers; protection against arbitrary or unlawful interference with privacy, family, home or correspondence (including the placing of hidden microphones, wire-tapping, the

surveillance of mail and other communications and house searches), and the legal justification for such interference if and when it took place; access to foreign publications and radio and television broadcasts; the possibility of appeal against refusal to license new publications; the obligation to register new political parties and the prerequisite that they must comprise a minimum of 801 persons; and, finally, the right to take part in the conduct of public affairs. On the latter point, he asked whether it was true that unsentenced persons in custody pending trial were denied that right.

38. Mrs. HIGGINS said she understood from the Minister's statement that exit visas were no longer required to leave Mongolia. Was departure now completely free from controls and, if not, what conditions were now imposed? She further inquired what authority was competent to expel aliens and whether its decisions were subject to appeal.

39. The provisions of the Constitution appeared to open the way to all sorts of limitations on the freedom of assembly. She expressed the hope that the new legislation would be consistent with the Covenant in that regard and added that, although public order might certainly necessitate certain precautions, the blanket proviso that permission must be obtained in advance appeared excessive. Nor did she see the need to register new political parties or lay down criteria concerning the number of members, although that might be a reflection of interest in the identity of the persons involved.

40. Mr. PRADO VALLEJO expressed particular concern with regard to the freedoms of expression, assembly and association in Mongolia. The report stated that those rights were guaranteed and went into considerable detail concerning the relevant texts; but an enumeration of the laws with no indication of their content was not enough to enable the Committee to determine when and how - as must sometimes be the case - exercise could be restricted and limitations imposed. More detailed information was called for in that connection.

41. Endorsing the remark by the previous speaker concerning the registration, or licensing, of political parties, he asked whether, in case of refusal or official obstruction of the activities of groups of citizens, an appeal could be lodged and, if so, with which authority.

42. He noted from paragraph 87 of the report that no fewer than 720 "members of the intelligentsia" had been elected in the first round of elections to the Great People's Khural in 1990, and only 51 "herdsmen" and 18 "labourers". Was that not strange in what he understood to be a predominantly livestock-raising and agricultural country?

43. Lastly, he said he understood that the Little Khural was a standing body, whereas the Great People's Khural met only periodically; could further details be provided concerning the functioning of the former?

44. Mr. AMARSANAA (Mongolia), replying to questions, began by stating that the rights and duties of aliens were the subject of a new bill currently before Parliament. Their expulsion could only be authorized in specific circumstances, notably when national security was threatened, the competent authority in the matter being the Ministry of Public Security.

45. As indicated in paragraph 64 of the report, a decree on the procedure for conducting meetings and demonstrations had been issued in 1990. Its provisions were currently under review, to take account of the popular desire to celebrate historical as well as new events. Although the decree stipulated that the Executive Committee of the Khural of People's Deputies must be given advance notice of any such proposed event, it had been decided that the final decision concerning permission would be taken by the mayor of the locality concerned. There was at present no provision for remedy in the case of negative decisions, but the possibility of appealing to local courts was envisaged.

46. On the subject of parliamentary opposition, he said that the present Government was composed of representatives of four different parties in coalition. It was expected that another multi-party Government would be formed at the next session of the Great People's Khural.

47. Mongolia was traditionally a very religious country, and all beliefs were respected. As already pointed out, the 1934 Act still applied, but would soon be superseded by new legislation. Following the adoption of the 1934 Act, a great deal of repression had occurred, involving the destruction of virtually all the country's monasteries and what amounted to pogroms against the monks. Today, however, there was no persecution of any kind on religious grounds; people of any persuasion could take part in running the country; and numbers of monasteries as well as mosques, with their associated schools, were functioning smoothly. Religious orders were entitled to own property.

48. There were no restrictions on marriage with the partner of one's choice, but tradition remained strong, and Muslim women usually married only Muslim men: the law had no part in the matter.

49. The freedom of opinion was guaranteed under article 16 of the Constitution; fresh legislation was being prepared on that subject.

50. New legislation was also being drafted with regard to passport and visa requirements, and paragraph 46 of the report was no longer relevant in that respect. Movement throughout the country was authorized subject to registration with the local authorities concerned. If difficulties remained with regard to travel abroad, that was in no small measure due to the scarcity of hard currency to finance such travel.

51. Mongolia had four radio and television channels, television being financed from the State budget and radio dealt with by a separate authority. Tuning into foreign radio and television broadcasts was not prohibited. More than 80 newspapers and journals were published in the country, some

20 per cent of which emanated from official bodies. There were no restrictions on access to the foreign press but, again, a lack of hard currency made it difficult to acquire and import publications from abroad. A bill on the press was currently before Parliament; when adopted, it would be Mongolia's first ever press law.

52. Concerning elections, the details provided in the printed report referred to 1990. Further elections had been held in the current year by a single, secret ballot; more than a dozen individual or coalition parties had put forward candidates, and some candidates had stood as independents. The turnout had amounted to 95 per cent of the electorate. In accordance with the Constitution, no local elections would be held during the current year; incumbent mayors would continue to preside over local affairs.

53. As to divergencies between political parties in Mongolia, the 14 parties did in fact represent a wide variety of opinions and sectional interests. He could confirm that there was even a Bourgeois Party - which would have been unthinkable when the country had been under a socialist regime. As to registration of parties, the Great People's Khural had, in 1990, adopted 11 criteria, one of which was that a party applying for registration had to demonstrate a membership of at least 801, and independent candidates had to submit a list of 801 signatures of supporters. He was not sure why that particular number had been set. In the event of registration being refused, applicant parties could appeal to the Supreme Court, but if it confirmed the refusal, there was at present no right of appeal. Another point concerning political organization was that the two legislative bodies, the Great People's Khural and the Little Khural, which had been established in 1990, were in future to be replaced by a single body, to be called the Great State Khural.

54. The answer to Mr. Wennergren's question concerning deprivation of the right to vote was that under recently enacted legislation the only persons so deprived were prisoners serving jail sentences.

55. In reply to Mr. Aguilar Urbina's question about the unity of the Mongolian people, he said that there were considerable numbers of Mongolians living throughout the world, but the Mongolian Government's concern was only with those living within the national boundaries.

56. As to freedom of movement for journalists, restrictions had in the past applied not only to them but to diplomats as well. All restrictions on the movement of diplomats had now been removed, but, for reasons of national security, journalists were still required to apply for permission to visit certain parts of the country. However, such permission was invariably granted and in practice, therefore, they enjoyed complete freedom of movement.

57. On the question of minorities, there were a number of persons of other nationalities living in the country, including students attending universities and persons engaged in joint ventures; the latter included about 3,000 Chinese, some of whom were accompanied by their families, while others had relatives in

Mongolia. There were no longer any restrictions on Chinese or on any other minority with regard to visits to relatives and the like. Similarly, restrictions upon the freedom of Mongolians to move where they wished within the country had now been entirely removed. As a consequence of privatization, many people did in fact move to other areas in search of work - unemployment, previously unknown in the country, had now become a familiar phenomenon.

58. As to the right to criticize, when the new Penal Code had been enacted in 1986, all articles restricting criticism had been eliminated, and criticism had ceased to be a punishable offence.

59. Regarding military service, lamas, who occupied an important part in Mongolian tradition and culture, were, under new legislation, not required to undergo it, and provision was also made for alternative service for some other categories of people, including conscientious objectors.

60. Regarding the proclamation of states of emergency and martial law, he said that the circumstances in which such action could be taken were set forth in article 25 of the Constitution, which also made it clear that the conditions imposed applied equally to all persons.

61. Wire-tapping and other limitations on the right to privacy had in the past given grounds for serious concern, but under the new national security legislation such activities were confined to cases involving national security. New, more restrictive legislation relating to the conduct of house searches was also to be introduced.

62. Mr. Aguilar Urbina took the Chair.

63. The CHAIRMAN thanked the delegation of Mongolia for its answers and clarifications and noted that members of the Committee had no further questions to ask.

The meeting rose at 5.50 p.m.